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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,087	07/28/2003	Charles E. Holm	HOLM-004	5966

7590 07/07/2004

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EXAMINER

LOBO, IAN J

ART UNIT	PAPER NUMBER
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3662

DATE MAILED: 07/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,087

Applicant(s)

HOLM, CHARLES E.

Examiner

Ian J. Lobo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8 and 11-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mechling, IV ('852) when taken in view of Lowden ('336) or Combs, III ('095).

The patent to Mechling, IV (hereinafter Mechling) discloses a submersible ice fishing system. The system includes a submersible unit (10) in communication with a control unit (16) and a line release (14) attached to the submersible unit (10).

The difference between Mechling and claim 11 is in the claimed line release. In the claim the line release "has a first jaw and a second jaw". Mechling discloses (col. 3, lines 39-43) that the line release is commonly known and may typically be used with down riggers and the like.

The patents to Lowden (see figures 3 and 4) and Combs, III (see figure1) each teach jaw type line release mechanisms (including a first and second jaw) typically used with down riggers. In view of Mechling's statement that the line release is commonly known and typically used with down riggers, it would have been obvious to one of ordinary skill in the art to utilize the jaw type line release mechanism commonly used in down riggers as the release means of Mechling. Independent claim 11 is so rejected.

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Independent claim 1 is similarly rejected as claim 11 in as much as the "swivel connector (46)" reads upon the claimed "downrigger clip".

Dependent claims 2-8 and 12-18 are further provided by the combination of Mechling and Combs, III or Lowden. For example, with respect to claims 3, 4, 13 and 14, see the jaw shapes of Lowden and Coombs, III. With respect to claims 7 and 17, skis 36 read upon the fins claimed. With respect to claims 6 and 16, see Fig. 1. With respect to claims 8 and 18, see Mechling, col. 4, lines 21- 28.

3. Claims 9, 10, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mechling, IV ('852) when taken in view of Lowden ('336) or Combs, III ('095) as applied to claims 1 and 11 above, and further in view of Fedora et al ('016).

Claims 9 and 19 differ over the Mechling system by claiming a release switch on the control unit. Claims 10 and 20 further differ over the Mechling system by claiming that the control unit includes a joystick. As disclosed on col. 5, lines 12-13, Mechling discloses "user control may be incorporated into control 16" but does not disclose a "joystick".

The patent to Fedora et al discloses a remote control angling device wherein the control unit includes user control through a joystick (3a). Joy sticks are well known for their advantages of designating remote movements in 360 degrees. Thus, to have utilized a joy stick, as taught by Fedora et al, as a user control mechanism in Mechling would have been obvious to one of ordinary skill in the art in view of the ability to control movement in 360 degrees. Claims 10 and 20 are so rejected.

Further, Fedora, on col. 5, lines 9-54, suggest the use of a release switch to better control the release of the fishing line. To have modified Mechling to include a release switch in the control unit would have been obvious to one of ordinary skill in the art in view of the advantageous controllability afforded. Claims 9 and 19 are so rejected.

Response to Arguments

4. Applicant's arguments filed April 22, 2004 have been fully considered but they are not persuasive. First, applicant argues that the line releases taught by Lowden and Coombs, III are not "frictionless" as is claimed by applicant. This argument is not convincing since the instant claims do not claim "frictionless". The two jaw structures of the line releases of Lowden and Coombs, III have an opening that slidably receives a fishing line when in a closed position and releases a fishing line when in an open position. This directly reads upon the claims.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Mechling, IV discloses use of a line release mechanism but does not detail the specifics of the line release mechanism since Mechling, IV suggests that line release mechanisms for down rigger systems is well known in the art. One of ordinary skill in the art would look to utilize the

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line release mechanisms of Coombs, III or Lowden upon the system of Mechling, IV because it provides a mechanism for assuring control of the submersible unit and fishing line.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

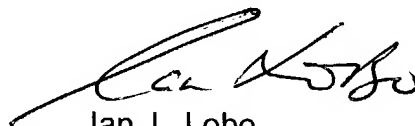
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ian J. Lobo whose telephone number is (703) 306-4161. The examiner can normally be reached on Monday - Friday, 6:30 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas H. Tarcza can be reached on (703) 306-4171.

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The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Ian J. Lobo", is positioned above the printed name.

Ian J. Lobo
Primary Examiner
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